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Attorney for Defendant  
MATTHEW M. PIERCEY

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

MATTHEW M. PIERCEY,

Defendant.

Case No. 2:20-cr-0211-TLN

**ORDER TO SEAL**

PLEASE TAKE NOTICE that defendant MATTHEW PIERCEY moves the Court for leave to file his application for the appointment of second counsel under seal.

The application is made upon the grounds that good cause exists to file the application and accompanying documents under seal. Courts have found ex parte requests for subpoenas permissible. *U.S. v. Kravetz*, 709 F.3d 47, 53 (1st Cir. 2013). A defendant should be permitted to make an ex parte application for pretrial production of documents such as where “identification of the source of evidence potentially imperils the source or integrity of evidence; or where notice of subpoena duces tecum would compromise defense counsel’s trial strategy; or where a constitutional interest of a defendant is implicated.” *U.S. v. Sellers*, 275 F.R.D. 620, 624-625 (D. Nev. 2011). This Court has the authority to file documents under seal pursuant to Federal Rule of Criminal Procedure 49.1(d). This application contains information that is protected by the attorney-client

1 privilege and the work product privilege, including defense trial strategy. Failure to seal  
2 the application would impinge upon Mr. Piercey's constitutional rights because he would  
3 not be able to provide the same frank, detailed information in a public filing.

4 Specifically, through this application, Mr. Piercey is seeking the appointment of an  
5 additional lawyer. If granted opposing counsel will certainly become aware a second  
6 lawyer was appointed. However, the declaration in support of the request contains  
7 significant work product and detailed information about defense strategy to which the  
8 government is not entitled.

9 There is good cause for this court to use its authority under Federal Rule of  
10 Criminal Procedure 49.1(d) to file the 17(c) application and accompanying documents  
11 under seal.

12 Respectfully submitted,

13 Dated: November 6, 2023

LAW OFFICES OF DAVID D. FISCHER, APC

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15 /s/David D. Fischer

16 DAVID D. FISCHER

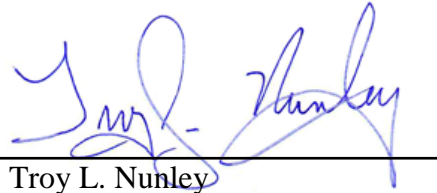
17 Attorney for Defendant

18 MATTHEW M. PIERCEY  
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**ORDER**

Good cause appearing, the Court hereby orders the application for a second attorney and accompanying documents sealed.

Dated: November 13, 2023



Troy L. Nunley  
United States District Judge